

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Tier III Coalition for Wireless E911	)	WT Docket No. 02-377
Petition for Forbearance From E911	)	
Accuracy Standards Imposed on Tier III	)	DA 02-3470
Carriers	)	

**COMMENTS  
of the  
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT  
OF SMALL TELECOMMUNICATIONS COMPANIES**

**I. INTRODUCTION**

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in response to the Commission's Public Notice<sup>1</sup> seeking comment on the Petition for Forbearance from E911 accuracy standards filed by the Tier III Coalition for Wireless E911 (Tier III Coalition). OPASTCO is a national trade association representing approximately 500 small telecommunications carriers serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve over 2.5 million customers. Nearly one half of OPASTCO's members provide some type of wireless service. All of OPASTCO's members are rural telephone companies as defined in 47 U.S.C. §153(37).

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<sup>1</sup> *Wireless Telecommunications Bureau Seeks Public Comment on Petition for Forbearance From E911 Accuracy Standards Imposed on Tier III Carriers*, WT Docket No. 02-377, Public Notice, DA 02-3470 (rel. Dec. 17, 2002).

OPASTCO supports the Tier III Coalition's Petition for Forbearance, which seeks temporary relief for Tier III carriers<sup>2</sup> from compliance with the wireless enhanced 911 ("E911") Phase II accuracy standards for locating wireless subscribers as set forth in the Commission's Rules.<sup>3</sup> Because E911 Phase II accuracy involves public safety, a careful balancing act is necessary when considering requests that impact systems intended to help locate individuals in times of emergency. Consequently, the Tier III Coalition's Petition seeks no delay in deploying E911 Phase II-capable systems in timely response to a Public Safety Answering Point (PSAP) request. Rather, it seeks to encourage Tier III carriers to deploy available Phase II solutions by insulating them, for a limited time period,<sup>4</sup> from potential enforcement proceedings if that deployment falls short of the strict accuracy standards imposed by Section 20.18(h) of the Commission's Rules. OPASTCO supports the Petition as a good faith effort to balance existing public safety needs with the concerns of rural carriers who seek to avoid enforcement action for their best efforts at complying with the Commission's Phase II E911 rules.

## II. COMMENTS

OPASTCO members are committed to the implementation of Phase II E911. However, rural carriers, most of whom are considered Tier III carriers, are not in a

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<sup>2</sup> Tier III carriers are defined as non-nationwide carriers that had under 500,000 subscribers as of year-end 2001. *See, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Order to Stay, 17 FCC Rcd 14841, 14847-14848, paras. 22-23 (2002). (E911 Order)

<sup>3</sup> 47 C.F.R. § 20.18(h).

<sup>4</sup> The forbearance period requested within the Petition corresponds to the existing timeline for ubiquitous deployment of automatic location identification (ALI)-capable handsets, where a wireless carrier seeks to utilize a handset-based solution for its E911 Phase II deployment. Thus, the requested forbearance period would end as of December 31, 2005. *See, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442, 17457, paras. 36-37 (2000).

position to control or significantly influence the availability of Phase II-compliant E911 technology for rural applications. As the Tier III Coalition accurately notes, “rural wireless systems confront coverage and other technical challenges” that are quite different from their counterparts serving urban and suburban areas.<sup>5</sup> However, in most instances, the available solutions for Phase II E911 compliance have been designed to meet the needs of large, nationwide carriers, rather than the unique deployment requirements of a truly rural network.

Consequently, the Commission should not be surprised that the Tier III Coalition’s Petition indicates that, to date, no commercially available network or handset-based Phase II-compliant E911 location system has been identified that can both be economically deployed and provide for compliance with the Section 20.18(h) accuracy standards.<sup>6</sup> Since questions still remain as to whether any of the commercially available E911 location systems will actually provide for full compliance in urban and suburban deployments, the prospects for future compliance in sparsely populated and terrain-challenged rural environments are even more uncertain. The Tier III Coalition’s Petition correctly recognizes that the ability of rural carriers to comply with the Commission’s accuracy standards is limited by the availability, overall effectiveness, and affordability of commercially available Phase II location technology and equipment.<sup>7</sup>

If proven and affordable E911 Phase II technology that satisfied Section 20.18(h) accuracy in all environments were readily available for prompt deployment, then the Tier

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<sup>5</sup> *In the Matter of Petition Pursuant to 47 U.S.C. §160(c) for Forbearance From E911 Accuracy Standards Imposed on Tier III Carriers for Locating Wireless Subscribers Under Rule Section 20.18(h)*, WT Docket No. 02-377, Petition of the Tier III Coalition for Wireless E911 (fil. Nov. 20, 2002), p. 15. (Tier III Coalition Petition)

<sup>6</sup> Tier III Coalition Petition, pp. 12-13.

<sup>7</sup> *Ibid.*, p. 35.

Tier III Coalition's Petition would be superfluous. Unfortunately, as the Tier III Coalition has demonstrated, that is by no means the case today. Faced with this reality, the only two realistic options before the Commission are either: 1) to defer E911 Phase II deployment in all rural areas or, 2) to provide relief, at least on an interim basis, from strict application of the Section 20.18(h) locational accuracy standards. By granting the Tier III Coalition's Petition, regulatory relief can be provided in an orderly and reasonable fashion, while allowing the deployment of Phase II E911 technologies in rural areas to continue.

In the absence of a limited period of forbearance from the Phase II E911 accuracy standards, the Commission is likely to face a sizeable number of individual applications for waiver of these rules from individual Tier III carriers. In the past, when inundated with waivers by hundreds of similarly situated carriers,<sup>8</sup> the Commission has found itself constrained to grant a blanket waiver to everyone pending consideration and disposition of the individual waivers. Proceeding in such a cumbersome and administratively inefficient manner is particularly inappropriate in connection with a matter involving the public health and safety of consumers nationwide.

Also, as the Tier III Coalition has stated, a two year forbearance period would allow rural wireless providers, equipment vendors, PSAPs, and the Commission and its staff to collaborate in order to "overcome the multiple issues that continue to vex Phase II solutions in the smallest rural markets served by Tier III carriers."<sup>9</sup> Perhaps more

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<sup>8</sup> In addition to the numerous waiver requests that have been filed for related aspects of E911 deployment, (See, Order to Stay, 17 FCC Rcd 14856-14858 and Appendix A), both the Communications Assistance for Law Enforcement Agencies (CALEA) and the TeleTYpewriter (TTY)-911 proceedings also have resulted in similar mass filings of individual waiver requests.

<sup>9</sup> Tier III Coalition Petition, p. ii.

importantly, the Tier III Coalition has pointed out that a flexible standard for the enforcement of the E911 accuracy standards could help contribute to the timely deployment of Phase II technology.<sup>10</sup> The recent E911 deployment inquiry conducted for the Commission seems to concur with this view when noting that “additional flexibility – rather than rigid rules – may, in some cases, actually facilitate the roll out of wireless E911 services.”<sup>11</sup> Consequently, the Commission should grant the Tier III Coalition’s Petition for Forbearance, so that additional flexibility can be provided to small and rural wireless carriers as they endeavor to deploy technologies that will allow for the continuous improvement of E911 locational accuracy systems.

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<sup>10</sup> *Ibid.*, pp. 40-41.

<sup>11</sup> “*Report on Technical and Operational Issues Impacting the Provision of Wireless E911 Services*,” prepared for the Federal Communications Commission by Dale N. Hatfield, p. 45 (rel. Oct. 15, 2002). *See also*, Tier III Coalition Petition, p. 14.

### **III. CONCLUSION**

For all the foregoing reasons, OPASTCO respectfully submits that the Tier III Coalition's Petition for Forbearance represents an appropriate balance between existing public safety needs and the concerns of rural wireless carriers with regard to the enforcement of the Commission's accuracy standards for locating wireless subscribers. Accordingly, the limited forbearance that has been requested is reasonable and should therefore be granted expeditiously by the Commission.

Respectfully submitted,

**THE ORGANIZATION FOR THE  
PROMOTION AND ADVANCEMENT OF  
SMALL TELECOMMUNICATIONS COMPANIES**

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## **CERTIFICATE OF SERVICE**

I, Jeffrey W. Smith, hereby certify that a copy of the comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent by first class United States mail, postage prepaid, on this, the 24<sup>th</sup> day of January, 2003, to those listed on the attached list.

By: /s/ Jeffrey W. Smith  
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## **SERVICE LIST**

**WT Docket No. 02-377**  
**DA 02-3470**

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